

5585. Adulteration and misbranding of noodle soup. U. S. v. 25 Cartons of Noodle Soup. Decree of condemnation. Product ordered destroyed or delivered to a welfare organization. (F. D. C. No. 10138. Sample No. 14363-F.)

Examination showed this product consisted of a mixture of egg noodles with chicken fat, hydrogenated vegetable oil, and artificial flavoring.

On or about July 6, 1943, the United States attorney for the District of Oregon filed a libel against 25 cases of noodle soup at Eugene, Oreg., alleging that the article had been shipped in interstate commerce on or about May 15, 1943, by the Aldama Products Co. from Los Angeles, Calif.; and charging that it was adulterated and misbranded. The article was labeled in part: (Envelope) "E. Z. Noodle Soup" (Picture of a hen). The envelope also bore the words "Real Chicken Fat" in large prominent type and the statement, "Ingredients: Contains Real Egg Noodles, Chicken Fat, Hydrogenated Vegetable Oil * * * Artificially Flavored 3 Ozs. Net Wt." in small, inconspicuous type.

The article was alleged to be adulterated in that a substance containing both chicken fat and vegetable oil had been substituted for an article purporting to contain fat derived from chicken only.

The article was alleged to be misbranded in that the statement "With Chicken Fat," appearing on the display carton and shipping case, and the prominent statement "Real Chicken Fat," and the picture of a hen appearing on the envelope, were misleading since they implied that the fat present was all chicken fat, whereas hydrogenated vegetable oil was also present, and this impression was not corrected by the inconspicuous ingredient declaration. It was alleged to be misbranded further in that the statement of ingredients, required by the Act to appear on the label or labeling, was not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

On August 4, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed or delivered to a welfare organization.

5586. Misbranding of chicken noodle soup mix. U. S. v. 15 Cases of Chicken Noodle Soup Mix. Default decree of condemnation and destruction. (F. D. C. No. 9932. Sample No. 15115-F.)

On May 13, 1943, the United States attorney for the District of Oregon filed a libel against 15 cases of chicken noodle soup mix at Brownsville, Oreg., alleging that the article had been shipped in interstate commerce on or about April 6, 1943, by the DeLuxe Brands Co., from Los Angeles, Calif.; and charging that it was misbranded. The article was labeled in part: "DeLuxe Brand * * * [vignette of a chicken] Chicken Noodle Soup Mix." The article was alleged to be misbranded in that the vignette of a chicken and the name "Chicken Noodle Soup Mix" was false and misleading as applied to an article that contained little, if any, extractives of chicken, and which owed its flavor, at least in part, to artificial flavor.

On July 12, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

GIFT PACKAGES OF FOOD *

5587. Adulteration of gift packages. U. S. v. 51 Cartons of "Victory Snack-Pack." Default decree of condemnation and destruction. (F. D. C. No. 10854. Sample No. 29667-F.)

Examination showed the peanuts in this assortment were infested with beetles.

On October 7, 1943, the United States attorney for the Northern District of California filed a libel against 51 cartons, each containing an assortment of cookies, nuts, candies, a jar of peanut butter, and a jar of olives or cherries, at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about July 28, 1943, by the United States Candy and Food Corporation from New York, N. Y.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: (Cartons) "Victory Snack-Pack".

On November 9, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5588. Adulteration and misbranding of gift packages. U. S. v. 47 Dozen and 9 Cases of Gift Packages. Default decrees of condemnation and destruction. (F. D. C. Nos. 10928, 12180. Sample Nos. 29671-F, 60530-F.)

Examination showed that the crackers, candy, and peanuts in these packages contained one or more of the following: Insect excreta, webbing, pupae, beetles,

*For gift packages containing candy as the only food product see Nos. 5443, 5444.

or larvae. The crackers in one lot were rancid and unpalatable. One lot was also short weight.

On October 12, 1943, and April 13, 1944, the United States attorney for the Northern District of California filed libels against 47 dozen gift packages and 9 cases, each containing 12 gift packages in the form of checkerboard cartons, at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about September 1 and 3, 1943, by Newberg-Wind, Inc., from Babylon, N. Y.; and charging that it was adulterated and misbranded. One portion was labeled in part: (Sticker on package) "Checkers Mal Newburg Co. New York, N. Y.," and the remainder was labeled in part: (Sticker on checkerboard) "Contents: 2 Books 1 Puzzle 1 Writing Kit 1 Pencil 1 Checkers 1 Lb. Candy."

The article was alleged to be adulterated (9 cases) in that it consisted in whole or in part of a filthy substance, and (47 dozen cases) in that it consisted in whole or in part of a filthy and decomposed substance and was otherwise unfit for food.

One lot (47 dozen packages) was alleged to be misbranded in that the statement "Net Weight 1 Lb or Over" was false and misleading as applied to an article which was short weight, and in that it was in package form and its label failed to bear an accurate statement of the quantity of the contents.

On November 9, 1943, and June 2, 1944, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5589. Misbranding of gift packages. U. S. v. R. L. Albert & Son, Inc. Plea of not guilty. Tried to a jury. Verdict of guilty. Fine \$1,000 on count 1; sentence suspended on counts 2 to 5, inclusive. (F. D. C. No. 9622. Sample Nos. 19616-F, 20121-F, 31913-F, 32699-F, 36960-F.)

On May 13, 1943, the United States attorney for the Southern District of New York filed an information against R. L. Albert & Son, Inc., New York, N. Y., alleging shipment within the period from on or about October 16, 1942, to January 26, 1943, from the State of New York into the States of Massachusetts, Ohio, and Maryland, of quantities of gift packages that were misbranded.

The product in three of the shipments was labeled in part: "Send-A-Song Gift Pack." It was alleged to be misbranded (1) in that the statement "1 Lb. 9 Oz.," borne on the boxes, was false and misleading since the boxes contained less than the declared amount; (2) in that it was in package form and its label failed to bear an accurate statement of the quantity of the contents, and the variation between the statement of the quantity of the contents displayed on the label and the quantity actually contained in the box was unreasonable; and (3) in that its label failed to bear the place of business of the manufacturer, packer, or distributor. Misbranding was alleged with respect to the following items contained in the package: Argentina Gruyere process cheese, in that the statement "1 Oz.," borne on the package, was false and misleading since the packages contained less than 1 ounce, and in that it was food in package form and its label failed to bear an accurate statement of the quantity of the contents in terms of weight and the variation was unreasonable; peanut butter, in that it was in package form and its label failed to bear an accurate statement of the quantity of the contents, since the label failed to bear any statement of the quantity of the contents; cherry and raspberry jellies, in that they were imitations of other foods and their labels failed to bear, in type of uniform size and prominence, the word "imitation," and, immediately thereafter, the names of the foods imitated, and in that they purported to be and were represented as foods for which a definition and standard of identity has been prescribed by regulations promulgated pursuant to law but failed to conform to such definition and standard of identity, since they had been made from a mixture composed of less than 45 parts by weight of one of the fruit juice ingredients to each 55 parts by weight of one of the optional saccharine ingredients specified in the regulations; apple, raspberry, and lime jellies, in that the statement "2 Oz.," borne on the jars, was false and misleading since the jars contained less than 2 ounces, and in that they were in package form and their labels failed to bear an accurate statement of the quantity of the contents; apple and lime jelly, in that they contained artificial coloring and failed to bear labeling stating that fact; lime jelly only, in that its label did not bear the common or usual name of each ingredient.

One shipment was labeled "Library of Games." It was alleged to be misbranded in that the statement "2 Lb. 4 Oz.," borne on the package, was false and misleading and in that it failed to bear an accurate statement of the quantity of the contents. One item in the package, black cherry jam, was labeled "2 Ozs. Net," but weighed less than 2 ounces net and was also deficient in fruit juice. It was alleged to be misbranded because of short weight and failure